Before the Office of the United States Trade Representative Trade Policy Staff Committee

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POTENTIAL ACTION UNDER SECTION 203 OF THE TRADE ACT OF 1974 WITH REGARD TO IMPORTS OF CERTAIN STEEL

RESPONSE
OF
BOLTEX MANUFACTURING CO., L.P.,
NATIONAL FLANGE AND FITTING CO., INC.,
AND WELDBEND CORPORATION
TO COMMENTS
ON ACTIONS THAT THE PRESIDENT SHOULD TAKE
REGARDING
CARBON STEEL FLANGES,
CARBON STEEL BUTT-WELD PIPE FITTINGS, AND
CARBON STEEL BUTT-WELD PIPE FITTING FORGINGS

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EXECUTIVE SUMMARY

This response is submitted on behalf of Boltex Manufacturing Co., L.P. ("Boltex") of Houston, Texas; National Flange and Fitting Co., Inc. ("National Flange") of Houston, Texas; and Weldbend Corporation ("Weldbend") of Argo, Illinois, in response to the United States Trade Representative's request, 66 Fed. Reg. 54321, 59599, 67349 (Oct. 26, 2001; Nov. 29, 2001; Dec. 28, 2001), for written responses to comments submitted on January 4, 2002 on the action that the President should take in light of the recommendations of the International Trade Commission ("ITC"), which were released on December 19, 2001. The ITC's unanimous determination of serious injury to the domestic producers of carbon steel flanges and carbon steel butt-weld pipe fittings calls for strong action by the President to remedy this injury and to enable the domestic industry to make adjustments to import competition.

Boltex, National Flange, and Weldbend are all domestic manufacturers of carbon steel flanges ("flanges") (classified under HTSUS 7307.91.5010 and 7307.91.5050). Weldbend is also a domestic manufacturer of carbon steel butt-weld pipe fittings ("butt-weld pipe fittings") (classified under HTSUS 7307.93.3000 and 7307.93.9030). Weldbend is also a domestic manufacturer of carbon steel butt-weld pipe fitting forgings ("butt-weld pipe fitting forgings") (classified under HTSUS 7307.93.3000 and 7307.93.9030), as to which it submitted an exclusion request on November 13, 2001. All three companies submitted a proposal on adjustment actions on November 5, 2001, as well as comments on the ITC's recommendations on January 4, 2002.

If the proposed adjustment actions are to become reality, the remedy ordered by the President must be effective. To be effective, an additional tariff of at least 40 percent must be ordered, as Boltex, National Flange, and Weldbend explained in their January 4 submission. The

Neither Boltex nor National Flange considers itself injured or threatened with injury by imports of butt-weld pipe fitting forgings, but they defer to Weldbend to present arguments on this issue because of its direct experience in the purchase and production of butt-weld pipe fitting forgings.

comments of several foreign producers and distributors of imports — including the Association of European Quality Flange Manufacturers ("the Europeans"); the Association of Flange Manufacturers of India ("the Indians"); Awaji Sangyo (Thailand) Co., Ltd. ("Awaji"); Empresas Riga, S.A. de C.V. and Niples del Norte, S.A. de C.V. ("the Mexicans"); and Silbo Industries, Inc. ("Silbo") — urge the President to abandon or eviscerate any remedy for the manufacturers of carbon steel flanges and carbon steel butt-weld pipe fittings. These comments are without merit. Without an effective remedy, the flange and fitting industry will not be able to adjust to import competition and "a significant portion of the industry would be forced to shut down." Determinations and Views of Commissioners in *Steel*, Inv. No. TA-201-73, at P171, C180 (December 2001) ("ITC Report").^{2/}

I. THE INTERNATIONAL TRADE COMMISSION'S UNANIMOUS INJURY DETERMINATION REGARDING CARBON STEEL FLANGES AND CARBON STEEL BUTT-WELD PIPE FITTINGS CALLS FOR A STRONG PRESIDENTIAL REMEDY: AN ADDITIONAL TARIFF OF AT LEAST 40 PERCENT

The ITC's unanimous findings that the flange and butt-weld pipe fitting industry has suffered serious injury and that increasing imports are a substantial cause of that injury reflect the severity of the harm suffered by the industry at the hands of import competition. The flange and fitting industry has suffered from an "extraordinary" rise in imports, ITC Report at P300, C309 (Commissioner Bragg), coupled with "significant" underselling by imports, ITC Report at P330-331, C341-342 (Commissioner Devaney), leaving the industry seriously weakened and unable to compete effectively. The industry's deterioration from 1996 to the first half of 2001 was evident in "virtually all of the indicators of industry condition," including production,

For ease of reference, this submission cites to both the public ("P") and the confidential ("C") versions of the ITC Report, though the only information disclosed in the submission is publicly available.

capacity utilization, U.S. shipments, U.S. market share, profitability, employment, and capital expenditures. ITC Report at P174, P171-174, C184, C181-184; P287, C295-296 (Commissioner Bragg); P328-330, C338-341 (Commissioner Devaney).

The ITC correctly found that price is the key to competition between imports and domestic products in the flange and fitting industry. Once basic industry standards are met, "price and cost competitiveness often become the most important factor." ITC Report at P175, C184. Of more than 200 respondents to the ITC's questionnaires on carbon tubular products, 58 percent stated that they "always" or "usually" purchase the lowest-price product. ITC Report at P-TUBULAR-48, C-TUBULAR-60. As Frank Bernobich of Boltex testified before the ITC, "Underselling is the key to our business." Tr. at 2524 (Oct. 1, 2001). *See* ITC Report at P176 & 176 n.1091, C186 & 186 n.1091.

Underselling — continuous and substantial — is precisely what the imports have been doing during the period of investigation. "[I]mports consistently and significantly undersold the domestic merchandise throughout the period of investigation," in all 40 quarterly comparisons. ITC Report at P331, C341 (Commissioner Devaney). The ITC's price comparisons revealed that underselling by non-NAFTA imports rose through the period to a margin of 25.8 percent below the domestic product, ITC Report at P-TUBULAR-59, C-TUBULAR-73, and that underselling by Mexican imports ranged as high as 36.5 percent, ITC Report at P-TUBULAR-61, C-TUBULAR-73, -75. Industry witnesses testified that even higher margins of underselling were typical: "When imports are priced well below the domestic flange, and I mean up to 40 percent below, the low price overwhelms our advantage in quality and reliability." Tr. at 2528 (Oct. 1, 2001) (Alois Keilers of National Flange); see Tr. at 2525 (Oct. 1, 2001) (James Coulas of

Weldbend, testifying that a Mexican supplier of butt-weld pipe fittings was offering its product at "prices 43 to 68 percent below the prices that we can offer").

A tariff remedy at a level below 40 percent cannot combat underselling of this magnitude. A lower tariff would too easily be absorbed by the very foreign suppliers that are pricing most aggressively in the U.S. market. Furthermore, the flange and fitting market is currently beset by a large inventory of imported product: the Commission found that importer inventories of flanges and fittings were over 60 percent higher on June 30, 2001 than they were on December 31, 1996. These inventories accounted for over 38 percent of the importers' U.S. shipments; by contrast, the inventories of other carbon tubular products represented 0.9 percent to 7.1 percent of the importers' U.S. shipments. ITC Report at P-TUBULAR-35, C-TUBULAR-46. The sale into the U.S. market of these importer inventories of flanges and fittings, which will not be subject to any tariff remedy, will perpetuate the suppression of U.S. producer prices and profits. It is all the more important, then, that the tariff ordered by the President be sufficiently high to eliminate the underselling margins of any imported fittings and flanges that enter after the effective date of the remedy.

The potential for import surges before the President's remedy takes effect is also of grave concern. The flange and butt-weld pipe fitting market is extremely vulnerable to sudden surges of imports. During the period of investigation, for example, imports of flanges surged by nearly 40 percent from the first half of 2000 to the first half of 2001, and imports of butt-weld pipe fittings surged by over 50 percent during that same one-year span. Individual countries have also demonstrated the capacity abruptly to increase their shipments of flanges and butt-weld pipe fittings to the United States. Imports of Taiwanese flanges below 360 millimeters in diameter tripled from 1999 to 2000, while imports of flanges of that size from Spain increased tenfold

during the same year. Imports of Korean butt-weld pipe fittings of at least 360 millimeters in diameter increased twelve-fold from 1998 to 1999, and imports of French fittings under 360 millimeters in diameter doubled from 1999 to 2000. Since such surges of imports could elude a tariff remedy by entering the United States prior to the remedy's effective date, it is critical that a tariff remedy be set at a sufficiently high level to be fully effective in eliminating the underselling of imports that enter after the effective date.³/

Finally, an additional tariff of at least 40 percent is crucial because none of the other remedies commonly being discussed, such as global reductions in steel capacity or government assistance to address legacy costs, would help the flange and fitting industry. Unlike most of the other segments of the steel industry under investigation, the producers of flanges and butt-weld pipe fittings are small companies, privately-held, often family-owned and -managed. These companies are too small, and too isolated from the large flat and long steel producers, to benefit from foreign government agreements to reduce the capacity of their large steel makers. As Vice Chairman Okun observed, with some understatement, the flange and fitting industry "is not the focus of international negotiations." ITC Report at P438, C459. Moreover, relief from legacy costs will not be the boon to these companies that it may be for their much larger counterparts in the other segments of the steel industry. Consequently, the tariff remedy selected by the President is highly likely to be the only remedy that has any real impact on the marketplace in which

Because of the problems of overhanging importer inventories and potential import surges prior to the effective date of a tariff remedy, Boltex, National Flange, and Weldbend urge that the tariff of at least 40 percent be phased down at steady increments of no more than one percentage point per year over a four-year remedy period, to ensure that the remedy retains its effectiveness and provides the industry with stable and predictable market conditions.

U.S. flange and fitting producers compete. For all of these reasons, Boltex, National Flange, and Weldbend urge the President to order an additional tariff of at least 40 percent *ad valorem*.⁴

II. COMMENTS ADVERSE TO A STRONG PRESIDENTIAL REMEDY ARE WITHOUT MERIT

A variety of comments were submitted to the U.S. Trade Representative by parties opposing an effective remedy for the fitting and flange industry. Although many of these comments contradict one another — the Europeans, the Mexicans, and the Indians, for example, all claim not to have caused any injury to the domestic industry and point the finger at one another — the comments do have in common a fundamental failing: they fail to make the case for denying the manufacturers of flanges and butt-weld pipe fittings the remedy that these manufacturers need in order to take effective adjustment actions. Boltex, National Flange, and Weldbend respond to the five principal adverse comments: (a) that the flange and fitting manufacturers are not properly included in the Section 201 proceeding; (b) that imports did not cause the industry's dire condition; (c) that Mexico, in particular, played no role in causing the industry's injury; (d)

If the President is disinclined to order a tariff remedy of at least the 40-percent level that would provide meaningful relief to the flange and fitting industry, then Boltex, National Flange, and Weldbend call to the President's attention the remedy proposal that they originally submitted to the ITC, a four-year tariff-rate quota ("TRQ") whose quantitative element is based on the average annual level of imports during 1993-95, the years immediately preceding the devastating surge in imports. (Flange imports surged by 38 percent from 1995 to 1996, and butt-weld pipe fitting imports surged by 77 percent during the same one-year period.) The TRO would be implemented on a tariff-classification-specific basis, would be set at quarterly intervals to avoid surges of imports early in the year, would charge against the first-year quantity the importer inventories accumulated between December 31, 1996 and June 30, 2001, and would charge against the first-year quantity any imports, entering between the date of the ITC's injury determination and the effective date of the President's remedy, that exceed the level of those imports during the corresponding period of a year ago. The TRQ would also include in-quota tariffs sufficient to respond to the underselling margins generally, as well as specific in-quota tariffs for Mexican butt-weld pipe fittings and Indian flanges. The above-quota tariff would initially be 50 percent. Boltex, National Flange, and Weldbend consider this TRQ remedy to be an effective form of relief in the event that the President is not inclined to order an effective tariff form of remedy.

that an effective remedy would cause short-supply problems; and (e) that other forms of relief, such as antidumping duty proceedings, withdrawal of Generalized System of Preferences ("GSP") benefits, or adjustment assistance would be adequate.

A. Manufacturers of Carbon Steel Flanges and Carbon Steel Butt-Weld Pipe Fittings are Properly Included in the Section 201 Proceeding

One of the objections raised to any effective remedy against imports of flanges and fittings is that flange and fitting makers are not really part of the steel industry. The Europeans are particularly fond of this argument, apparently hopeful that, even if all of the economic evidence supports an effective remedy, perhaps a semantic debate will distract the President. The simple answer to this objection is that both the U.S. Trade Representative and the Senate Finance Committee included carbon steel flanges and carbon steel butt-weld pipe fittings within the scope of this proceeding. It is not up to the Europeans, or any other foreign suppliers, to redact what both the Executive and the Legislative Branches have expressly requested: that the flange and fitting industry be investigated as to its injury and the role of imports in causing that injury.

It so happens that the U.S. Trade Representative and the Senate Finance Committee were quite correct in including the flange and fitting industry. The industry has invested millions of dollars in plant and equipment in the United States, has employed thousands of American workers, produces steel products in the United States, and participated actively in the Section 201 proceeding. It is entitled to the protection of U.S. trade laws, and the ITC has found unanimously that it has been seriously injured by increasing imports. For the President now to

deny an effective remedy to these manufacturers and their workers, on the feeble grounds that the industry is not a "steel industry," would be a cruel hoax and a ludicrous outcome.⁵/

A variant of this baseless objection is the claim that, since carbon steel flange forgings have not been included in the investigation from the outset, "the investigation of flanges has absolutely nothing to do with imported steel." European Comments at 2. To the contrary, as the Commission found and as numerous industry witnesses testified, the industry is being seriously injured by imports of finished carbon steel flanges, which increased in volume by almost 15 percent from 1998 to 2000 and by over 38 percent from the first half of 2000 to the first half of 2001, and which substantially undersold the domestic product. Tr. at 2528 (Oct. 1, 2001) (Alois Keilers of National Flange). These imports of steel flanges, and of steel butt-weld pipe fittings, had everything to do with the industry's severe deterioration over the past five years. §

Finally, both the Europeans and the Indians claim to find support for their objection in the Customs Service's recent proposal to change the country-of-origin markings on fittings and flanges made from foreign forgings. As Boltex, National Flange, and Weldbend explained in their January 4 submission, however, this proposal is irrelevant to the President's remedy deci-

The Europeans also denigrate the non-integrated U.S. flange producers, referring to them as "machine shops." Boltex, National Flange, and Weldbend are not sure what passes for "machine shops" in Europe, but in the United States those flange manufacturers that do not produce their own forgings must nevertheless engage in substantial manufacturing to produce a carbon steel flange: specialized equipment such as heat-treating furnaces, computer numerically controlled turret lathes, vertical turret lathes, drill presses, deburring machinery, automated transfer lines, and other equipment are employed.

The Indians claim that, since carbon steel flange forgings are not included in the investigation, the principal beneficiary of restrictions on imports would be the non-integrated U.S. manufacturers. The Europeans claim that the President should refrain from imposing any remedy for the U.S. flange producers because, in doing so, the President would have to "choose sides" between integrated and non-integrated manufacturers. To the contrary, both integrated and non-integrated U.S. producers compete in the finished flange market, both have been injured by imports of finished flanges, and both would benefit by an effective remedy.

sion. The proposal is not final, a similar proposal was invalidated by the Court of International Trade last year, and, regardless of any new marking rules, the industry will be making the same products and will be subject to the same injurious imports as found by the ITC. Accordingly, an effective remedy should be ordered for the flange and fitting industry.

B. The Evidence that Increasing Imports were a Substantial Cause of the Industry's Serious Injury is Overwhelming

A second comment in opposition to a remedy for the flange and fitting industry takes the form of an attempt to reargue the Commission's unanimous finding that imports were a substantial cause of the industry's serious injury. Silbo, the Europeans, the Indians, and Awaji all engage in one or another form of this attempt to discredit the ITC's determination. Unfortunately for its proponents, this attempt runs into a wall of solid facts:

- Imports of flanges and fittings "steadily increased in both absolute terms and relative to domestic production," soaring by over 30 percent from 1996 to 2000 and by over 32 percent from the first half of 2000 to the first half of 2001. ITC Report at P171, C180.
- The domestic industry experienced "substantial deterioration in its overall condition over the 1996-2000 period . . . and this continued into 2001." ITC Report at P171, C181. "Most tellingly, solid industry operating profits at the opening of the period were steadily eroded until by 2000 the industry recorded an operating loss." ITC Report at P171, C181.
- The volume and low prices of the imports undermined the industry's prices and market share, making it impossible for the industry to profit fully from the growth in demand early in the period of investigation, and leaving it weak as the business

cycle turned downward late in the period. No other causes of injury were as important as the imports. ITC Report at P174-178, C184-187; P300-301, C309-310 (Commissioner Bragg); P331-332, C341-342 (Commissioner Devaney).

The European and Indian flange manufacturers claim that these findings are flawed because the ITC did not consider flanges separately from fittings. As a matter of fact, however, there was ample information on the record regarding flanges alone — import data, questionnaire responses by flange manufacturers such as Boltex and National Flange, sworn testimony by flange manufacturers on underselling by imported flanges, and so forth — and none of this information suggested that the flange manufacturers were any more insulated from the injurious impact of surging low-priced imports than was the remainder of the flange and fitting industry. ²/

The extraordinary volume and underselling margins of the imported flanges and butt-weld pipe fittings demonstrate conclusively that, contrary to Awaji's contention, existing antidumping duty orders have not been a sufficient antidote to injurious imports. First, there are no antidumping duty orders against imports of carbon steel flanges from any country. Second, the antidumping duty orders against imports of carbon steel butt-weld pipe fittings provide only limited coverage of countries, suppliers, and products. For example, there are no antidumping duty orders applicable to carbon steel butt-weld pipe fittings with inside diameters of 360 millimeters or more. The antidumping duty order on Thai butt-weld pipe fittings, as Awaji is well aware, does not apply to Awaji, so Thailand remains one of the largest foreign suppliers of butt-weld pipe fittings to the U.S. market. Antidumping duties also apply to Taiwanese butt-

The Indians go so far as to contend that the ITC's data are invalidated by the Customs Service's marking proposal because the data include "foreign production" in the United States. Again, regardless of any change in the marking of flanges and fittings, Boltex, National Flange, and Weldbend operate U.S. plants with U.S. workers and, having been found to have suffered injury within the meaning of Section 201, they merit relief.

weld pipe fittings, but the duties on imports from two companies are sufficiently low to make entry of Taiwanese product quite feasible. In sum, for the most part, imports of flanges and fittings are not substantially limited by antidumping relief. A global remedy is required.

C. <u>Mexican Merchandise Contributed Importantly to the Industry's Injury</u>

It is hardly surprising that the Mexicans devote all of their comments to the contention that Mexico should not be included in any remedy for the flange and fitting industry, because Mexican merchandise did not contribute importantly to the industry's injury. The ITC, of course, examined this issue carefully, and four of the six Commissioners determined that imports from Mexico did contribute importantly and should be included in any remedy. ITC Report at P178-180, C187-189; P305, C313-314 (Commissioner Bragg); P331-332, C342 (Commissioner Devaney).

The ITC's determination in this regard is well-grounded. Although the Mexicans try to demonstrate that Mexican imports declined over the period of investigation, the official data show that imports of flanges and fittings from Mexico increased from 1996 to 2000, and increased from the first half of 2000 to the first half of 2001. Furthermore, both the ITC's price comparisons and the testimony of industry representatives stressed that underselling by Mexico was severe and chronic. The ITC found underselling by Mexico in every quarter for which it collected data, and the margin of underselling ranged as high as 36.5 percent. ITC Report at P-TUBULAR-61, C-TUBULAR-73, -75. Even higher margins were encountered in the U.S. market during the pendency of the investigation. Tr. at 2525 (Oct. 1, 2001) (James Coulas of Weldbend, testifying that a Mexican supplier of butt-weld pipe fittings was offering its product at "prices 43 to 68 percent below the prices that we can offer"). The ITC record offers no

support whatsoever for the Mexicans' claim that there is no price competition between Mexican and U.S. butt-weld pipe fittings.

If the President has any hesitation about ordering relief from Mexican imports of flanges and fittings, the President should at a minimum order relief from Mexican butt-weld pipe fittings. Mexico was the largest or second largest foreign source of butt-weld pipe fittings below 360 millimeters in diameter in every year of the period of investigation. Furthermore, the unit value of Mexican butt-weld pipe fittings of that size dropped from 1996 to the first half of 2001.

In sum, the ITC correctly found that Mexico contributed importantly to the industry's serious injury. A remedy that excludes Mexico would be an ineffective remedy.

D. A Strong Presidential Remedy Would Not Cause Short Supplies

A fourth comment in opposition to an effective remedy for the flange and fitting industry is the claim that restrictions on imports would cause shortages in supply. This concern is valid only with respect to forgings for butt-weld pipe fittings, which Weldbend has urged be excluded from any remedy. Awaji's suggestion that the shortage would extend to finished fittings as well is not supported. The domestic industry has substantial unutilized capacity: by the end of the first half of 2001, capacity utilization was down to 65 percent, ITC Report at P-TUBULAR-17, C-TUBULAR-20. Furthermore, the domestic industry has substantial inventories: by the end of the first half of 2001, domestic manufacturers' inventories had reached 58,000 tons, about 30 percent of their total production for all of 2000. ITC Report at P-TUBULAR-17, C-TUBULAR-20. These inventories, plus fuller capacity utilization, would readily satisfy the total domestic consumption of flanges and fittings. ITC Report at P-TUBULAR-38, C-TUBULAR-50.

Moreover, if Boltex, National Flange, and Weldbend are able to implement their adjustment

plans, they will enhance their productivity and enlarge their capacity, making supply shortages even less likely.

The Europeans contend that supply shortages will emerge in the market for large-diameter flanges and for flanges for the "approved market" ("AM flanges"). As Boltex, National Flange, and Weldbend explained in their December 5, 2001 submission, there is no evidentiary support for the Europeans' claim of supply shortages of these two types of flanges. AM flanges are produced by a number of domestic manufacturers, including Boltex and National Flange. Furthermore, as Bill Butters of Boltex testified before the ITC, the approved market is no longer, if it ever was, a truly distinct market: domestic AM flanges now compete with foreign flanges from suppliers that are on accepted manufacturer lists as well as from those that are not. Tr. at 741-742 (Nov. 8, 2001). The ITC concluded, after examining the evidence submitted by both the Europeans and the domestic industry, that "it is questionable how much, if any, impact that such [accepted manufacturers'] lists have on limiting import competition in fittings and flanges." ITC Report at P177, C186a.

The European contention of supply shortages for large-diameter flanges is likewise untenable. Quite a number of U.S. manufacturers make flanges with inside diameters of 360 millimeters or more, including Boltex, National Flange, and Weldbend. Customers for large flanges are considered a "major segment of [the] market," Tr. at 742 (Nov. 8, 2001) (Bill Butters), one for which the U.S. producers compete vigorously. Indeed, Boltex is planning to

Ironically, the Mexicans claim that they do not compete with the U.S. producers because the Mexican product cannot be sold in the approved market, while the Europeans claim that they do not compete with the U.S. producers because the European product is only sold in the approved market.

make additional investments in its capacity to manufacture large-diameter flanges if effective import relief is ordered. Tr. at 742 (Nov. 8, 2001) (Bill Butters).

In sum, an effective remedy for the flange and fitting industry should not be constrained by concerns over shortages of supply of finished flanges or finished butt-weld pipe fittings.

E. Other Forms of Relief Are Inadequate

A final comment in opposition to an effective remedy for flange and fitting producers is the claim that alternative forms of relief are adequate. The Europeans, for example, urge that the antidumping laws provide a more appropriate remedy for the industry's problems, while the Indians suggest withdrawal of GSP benefits or provision of adjustment assistance. None of these alternatives would be effective.

The ineffectiveness of antidumping duties is already well established by the experience of the industry. As was noted above, there are several antidumping duty orders currently in place with respect to butt-weld pipe fittings, but, as the ITC concluded, "these orders . . . did not preclude the increase in imports that caused serious injury." ITC Report at P389, C408. Antidumping remedies have proven to be too limited in scope and too easily circumvented to provide the comprehensive relief required by the industry. *See* Tr. at 2522 (Oct. 1, 2001) (Don Graham of Trinity Industries testifying that butt-weld pipe fitting production was shifted from Japan and Thailand to Malaysia and from Taiwan to Vietnam, in response to antidumping duty orders).

As for withdrawal of GSP benefits or adjustment assistance, these were considered by the ITC and were found lacking. ITC Report at P389-390, C408-409. The withdrawal of GSP benefits would apply only to a few foreign sources of supply, and would only result in additional tariffs of five to six percent, hardly sufficient to counteract the underselling margins of 40 percent or more that the industry is facing. Adjustment assistance, as the ITC found, "is limited in

amount and scope" and "would not provide the amount or type of assistance that would remedy the serious injury or threat of serious injury and facilitate adjustment." ITC Report at P356, C372. In short, given the serious injury caused by increasing imports of low-priced flanges and fittings, only a global remedy that constrains the pricing and volume of imports would be effective in promoting positive adjustment.

III. THE REMEDY SHOULD EXCLUDE CARBON STEEL BUTT-WELD PIPE FITTING FORGINGS

The adjustment plans of Weldbend would suffer a serious setback if the President failed to exclude from the remedy butt-weld pipe fitting forgings. As Weldbend explained in its November 13, 2001 exclusion request, and in its January 4, 2002 comments, although Weldbend is an integrated manufacturer of many types of butt-weld pipe fittings, Weldbend must rely on certain imported fitting forgings in order to manufacture the full range of fittings that U.S. customers demand. Fitting forgings are not available from domestic sources in the quantities or at the prices that Weldbend needs in order to remain competitive, largely because the only other domestic sources of forgings are competitors of Weldbend in the finished fitting market. Restrictions on imported fitting forgings would also impede adjustments to import competition by any other fitting producer that sought, in the wake of import relief on finished fittings, to expand its product line beyond its current forging capabilities.^{2/2}

The ITC noted that the President "may conclude that the record developed before USTR justifies exclusions for some products." ITC Report at P355 n.8, C371 n.8. The ITC appears to have considered the inadequate supplies of domestic forgings in developing its remedy recommendations — see ITC Report at P490-491, C515 (Vice Chairman Okun) (since non-integrated producers are "partially or wholly dependent upon outside sources for forgings," tariffs are better than quotas because they do not set "an absolute limit on imports") — but, in setting tariffs that would enable domestic producers to import forgings, the ITC adopted a tariff level too low to enable the industry to adjust to import competition in finished flanges and butt-weld pipe fittings. The better course is to increase the tariff level on flanges and butt-weld pipe fittings to an adequate level and to exclude fitting forgings from the remedy.

Notably, forgings for carbon steel flanges (imported under HTSUS 7307.91.1000) were excluded from the Section 201 investigation from the outset, because they were not among the products listed in the USTR's request to the ITC. It would be anomalous for carbon steel fitting forgings to be subject to a remedy while carbon steel flange forgings are not, since the two types of forgings play identical roles in their respective markets.

Weldbend set out the rationale for the exclusion of fitting forgings in its November 13, 2001 and January 4, 2002 submissions, and the rationale need not be repeated here. The comments submitted by other parties on January 4 did not supply any new information or arguments with regard to the exclusion of carbon steel butt-weld pipe fittings.

CONCLUSION

To address the serious injury unanimously found by the ITC, the President should apply an additional tariff of at least 40 percent *ad valorem* to imports of carbon steel flanges and carbon steel butt-weld pipe fittings. A tariff at this level is crucial to enable the domestic industry to recover from the devastating impact of low-priced and high-volume imports and to make the adjustments necessary to compete with imports in the future. The extraordinary margins of underselling, the irrelevance to this industry of any remedies arising from global capacity reductions or legacy cost relief, the vast importer inventories already poised for sale into the U.S. market, and the threat of renewed surges of imports prior to the effective date of the President's remedy, all provide compelling reasons for the President to set a tariff remedy at 40 percent or higher. None of the comments adverse to a remedy for the flange and fitting industry withstands scrutiny.

In fashioning this remedy, the President should exclude butt-weld pipe fitting forgings, because domestic sources of these forgings are inadequate. The President should exercise his

authority under Section 201 to promote positive adjustment to import competition by ensuring that the opportunity to compete does not become the preserve of only a portion of the domestic fitting industry.

Respectfully submitted,

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